

ATM WARRANT - MAY 4, 2009

TOWN OF SAUGUS

Essex, ss.

To the Constable of the Town of Saugus

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Saugus, qualified to vote in Town affairs for the Annual Town Meeting at the Saugus Town Hall located at 298 Central Street on Monday, May 4, 2009 at 7:30 PM to hear and act on the following articles: viz;

Article 1. To hear and act on reports of Committees.

Article 2. To see what sum of money the Town will vote to raise and appropriate for Town Charges for the Ensuing fiscal year 2010. (Town Manager)

Article 3. To see if the Town will vote to make supplementary appropriations to be used in conjunction with money appropriated under Article 2 of the 2008 Annual Town Meeting during the current fiscal year, and determine whether the money shall be provided by transfer from available funds; or to see what other action the Town wishes to take in the matter. (Town Manager)

Article 4. To see if the Town will vote to authorize the Treasurer with the approval of the Board of Selectmen, to borrow \$911,000.00 at 0% interest from the MWRA Local Pipeline Assistance Program for the purpose of designing and constructing improvements to water pipelines. (Town Manager)

Article 5. To see what sums of money the Town will vote to raise and appropriate for the Water Enterprise Fund for the ensuing fiscal year 2010. (Town Manager)

Article 6. To see what sums of money the Town will vote to raise and appropriate for the Sewer Enterprise Fund for the ensuing fiscal year 2010. (Town Manager)

Article 7. To see if the Town will vote to reauthorize a revolving fund for the purpose of supporting recreational programs for the community. Established fees will be used for the operating expenses in connection with maintaining these programs. (Town Manager)

Article 8. To see if the Town will vote to re-authorize a revolving fund for the Wetland Protection Act filing fees whereby the established fees for Fiscal Year 2010 will be used for operating expenses in connection with the enforcement of the Wetland Protection Act. (Town Manager)

Article 9. To see if the Town will vote to re-authorize a revolving fund for the purpose of supporting the water system cross-connection program. Established fees will be used for the operating expenses in connection with maintaining the program as mandated by the Department of Environmental Protection. (Town Manager)

Article 10. To see if the Town will vote to re-authorize a revolving fund for the purpose of supporting programs and activities at the Senior Center. Established fees will be used for the operating expenses in connection with maintaining these programs. (Town Manager)

Article 11. To see if the Town will vote to re-authorize a revolving fund for the purpose of supporting the Senior Lunch Program at the Senior Center. Established fees will be used for the operating expenses in connection with maintaining this program. (Town Manager)

Article 12. To see if the Town will vote to re-authorize a revolving fund for the Riverside Cemetery whereby the established fees will be used for the operating expenses in connection with maintaining the facility. (Town Manager)

Article 13. To see if the Town will vote to raise and appropriate a sum of \$3,000.00 for the purpose of participation in Help for Abused Women and Their Children Inc., (HAWC) or take any other action relative thereto. (Town Manager)

Article 14. To see if the Town will vote to raise and appropriate a sum of money for the purpose of highway construction, reconstruction and improvements. These funds will be reimbursable under the provisions of General Laws, Chapter 90, Section 34, Clause 2(a). (Town Manager)

Article 15. To see if the Town will revoke the provisions of Chapter 44, Section 53F ½ of the Massachusetts General Laws, ceasing the Kasabuski Ice Arena as an enterprise fund effective fiscal year 2010 as recommended by the Department of Revenue and the Town's outside auditors. (Town Manager)

Article 16. To see if the Town will vote to appropriate a sum of money (\$37,149.00) from the Landfill enterprise account for post closure monitoring and maintenance of the Town's landfill. (Town Manager)

Article 17. To see if the Town will revoke the provisions of Chapter 44, Section 53F ½

of the Massachusetts General Laws, ceasing the Landfill as an enterprise fund effective fiscal year 2010 as recommended by the Department of Revenue and the Town's outside auditors. (Town Manager)

Article 18. To see if the Town will vote to transfer a sum of money (Free Cash) as certified by the Massachusetts Department of Revenue for the Fiscal Year ended June 30, 2008, and such funds will be used as an additional revenue source for the Fiscal Year 2009 General Fund Budget voted under Article 2 of the 2008 Annual Town Meeting. (Town Manager)

Article 19. To see if the Town will vote to raise by borrowing a sum of money from the Massachusetts Water Pollution Abatement Trust or otherwise for capital improvements to the Town's sanitary sewer system, including all costs thereof, as defined in Section 1 of Chapter 29C of the Massachusetts General Laws as amended. (Town Manager)

Article 20. To see if the Town will vote to appropriate a sum of money for rehabilitation of Lobsterman's Landing Park including demolition, repair and/or replacement of floats, gangways, doors, refrigeration and curbing, parking lot repairs, installation of security cameras and replacement of piers; to determine whether this appropriation shall be raised by borrowing or otherwise; or to take any other action relative thereto. (Town Manager)

Article 21. To see if the Town will vote to raise and appropriate a sum of money to pay for the construction and installation of a new water line in partnership with the MWRA from the Lynnfield town line to the Lynn Fells Parkway on the southbound side of Rte 1; to determine whether this appropriation shall be raised by borrowing or otherwise, or to take any other action relative thereto. (Town Manager)

Article 22. To see if the Town will vote to establish a revolving fund pursuant to M.G.L. Chapter 44 section 53E & frac12; for the purpose of collecting and expending revenues from parking ticket violations. Said funds shall be expended by the Town Manager, not to exceed the total amount of \$25,000.00, only for the purpose of contractually administering the issuance of parking tickets, and the collection of the fines there from. (Town Manager)

Article 23. To see if the Town will vote to amend the Town By-laws by adding the following new section 804.01:

804.01 This by-law prohibits commercial transient vendors and transient operators from selling food or drinks of any kind within 2,000 feet of a food and drink concession stand that services the general public and is operated by a nonprofit with the purpose of financially supporting a given facility and or the operation of the nonprofit. This prohibition shall be in effect from the time the nonprofit concession is open until one hour after it is closed. (Town Manager as a courtesy to Selectman Michael Kelleher)

Article 24. To see if the Town will vote to amend the Town By-Laws, Section 602.2 F by deleting in its entirety and insert the following:

Fees for False Alarms

In consideration of the services to be provided by the Police Department, each alarm owner agrees to pay a fee to the Town of Saugus in the event of false alarms based upon the following schedule:

Two false alarms in a calendar year.....allowed

This regulation shall apply to persons while on, in or upon any public way, upon any way in which the public has a right of access, in any place to which members of the public have access as invitees or licensees, in any park or playground, conservation area or recreation area, cemetery, parking lot, or any area owned or under the control of the Town of Saugus; or in or upon any bus or other passenger conveyance operated by a common carrier or on private land or place without consent of the owner of person in control thereof.

Any person found in violation of this section may be arrested without a warrant by any officer authorized to serve criminal process, additionally any evidence seized at the time of the violation shall not need testing or certification. As with all civil infractions, in any hearing before a Magistrate, the standard of proof is the preponderance of the evidence and strict rules of evidence need not be applied.

Any vehicle used, or under the control of any person found to be in violation of this section may be towed at the expense of the owner and under the direction of the Police Department.

Those persons found in violation of this bylaw shall forfeit and pay for each offense a fine of Three Hundred (\$300.00) dollars. (Stephen Sweezy)

Article 26. To see if the Town will vote to amend Section 902: Shade Tree By-Law; Section 13. Requirements and Penalties a. Strike the third sentence, *“Any person who violates any provision of this bylaw or who fails to comply with notices issued pursuant to provisions of this bylaw shall be subject to fines up to \$300.00 for each separate offense.”*

To add at the end of paragraph, *Whoever affixes to a shade tree in a public way any sign or who cuts, paints or marks such tree (except for the purpose of protecting it or the public and under a written permit from the Tree Warden) shall be punished by a fine of not more than fifty dollars. Any person who cuts branches or stems of any tree or shrub in a public way (except under a written permit from the Tree Warden) shall be punished by a fine of not more than fifty dollars. Any person (other than the Tree Warden or his Deputies under the provisions of this Bylaw or after a public hearing or with written permission of the Tree Warden) who cuts down, removes or destroys a shade tree, shrub or fixture in a public way shall be punished by a fine of not more than five hundred dollars. Any person who willfully, maliciously or wantonly cuts, destroys or injures a tree, shrub or growth which is not his own, standing for any useful purpose shall be punished by a fine of not more than five hundred dollars.*

To add a new paragraph in Section 13. *c. Fines shall be assessed and collected under MGL Chapter 40, Section 21D adopted as part of this Bylaw. The Tree Warden shall have the requisite police power established under MGL Chapter 40, Section 21D.*

(Timothy R. Hawkes)

Article 27. To see if the Town will vote to amend the Town By-laws by adding the following new section:

Section 902.01 Heritage Tree Easement for Private Property

Section 1. Intent and purpose

To grant protection to Heritage Trees on Private Property for enhancement of property, quality of citizen life and to sustain the environmental health of our Community Forest.

Section 2. Definitions

Whenever the following words or terms are used in this By-law, they shall have these meanings:

“Heritage Tree” – A tree that meets one or more of the following criteria:

Old Age – 100 years or greater; Size – 32 inches diameter or greater

Species rarity

Association with specific Historic Event or Person

Outstanding Scenic Enhancement

Notable Wildlife Value

“Private Property” – Any land within the boundaries of the Town of Saugus that is not Public Property.

“Easement” or “Easement/Restriction” – a legal binding contract between the Private Property owner and the Town of Saugus (at the request of the Private Property owner) which provides for the protection of an Heritage Tree that will not impose any legal, financial or other responsibility or liability on the Town. To be enacted upon acceptance by a majority vote of the Board of Selectmen.

Section 3. Protection of Heritage Trees

Upon acceptance of an Easement the tree shall have the same protection the Town provides for a Public Shade Tree.

Section 4. Severability

In the event that any part or provision of this By-law are found or determined to be illegal or unenforceable by the Massachusetts Attorney General or any of the Massachusetts Court of competent jurisdiction, then the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this By-law which provisions will remain in full force and effect.

(Timothy R. Hawkes)

Article 28. To see if the Town will vote to raise and appropriate the amount of \$65,000.00 for the repair, replacement, and or installation of storm drains on Western Avenue and to determine whether this appropriation shall be raised by borrowing or to take any other action relative thereto. (Dennis Moschella)

Article 29. To see if the Town will vote to petition the General Court of the Commonwealth of Massachusetts to authorize the Town of Saugus to issue an additional license for the sale of alcoholic beverages to be drunk on the premises, i.e., one (1) all-alcoholic common victuler’s license to be exercised in the B2 zone of the Town. (Route 1). (George O. Gregson)

Article 30. To see if the Town will vote to amend the Zoning By-law of the Town of Saugus:

by adding a new Article XII Special Permits and Conditions, 12.4, Paragraph I entitled Accessory Dwelling Units to enable owner occupants of single family homes to provide safe, decent, and affordable housing that meets the changing needs of the Saugus community while protecting the character and property values of the Town’s single family residential neighborhoods; to provide an opportunity for family members who choose to live in proximity, but separate from other family members; to provide homeowners with a means of obtaining rental income, companionship, and/or security, thereby enabling them to remain more comfortably in homes and neighborhoods they might otherwise be forced to leave; to provide housing for persons with disabilities; and to provide affordable rental property in the Town of Saugus that meets the regulations of M.G.L. Chapter 40B, 20-23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

by amending Article 5, Table of Use and Parking Regulations by adding a new use, no.11, under Accessory Use as follows:

	R-1	R-2	R-3	R-4	B-1	B-2	B-3	I-1	I-2	F.P.	F.P.-F	Parking Code
11.Accessory Dwelling Unit	S-1	S-1	-	-	-	-	-	-	-	-	*	A



(Affordable Housing Committee)

Article 31. To see if the Town will vote to amend the Zoning By-law of the Town of Saugus by inserting the following new section:

ARTICLE XII – SPECIAL PERMITS AND CONDITIONS

12.4 § I. ACCESSORY DWELLING UNITS

GENERAL REQUIREMENTS

- 1. Purpose**
2. The purpose of this Bylaw is to enable owner occupants of single family homes to provide:

Safe, decent, and affordable housing that meets the changing needs of the Saugus community while protecting the character and property values of the Town's single-family residential neighborhoods.

An opportunity for family members who choose to live in proximity, but separate from other family members;

Homeowners with a means of obtaining rental income, companionship, and/or security, thereby enabling them to remain more comfortably in homes and neighborhoods they might otherwise be forced to leave;

Housing for persons with disabilities;

1. Affordable rental property in the Town of Saugus that meets the regulations of M.G.L. Chapter 40B, § 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

2. This Bylaw shall achieve these goals by providing owner-occupants of single-family homes with the option of creating two categories of Accessory Dwelling Units: family units and affordable units.

3. **Definitions**

4. **Accessory Dwelling Unit**

An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling, (not within accessory structures in accordance with this By-law) that is clearly a subordinate part of the single-family dwelling and

complies with the criteria stated in the following subsections.

1. Deed-Restricted Accessory-Dwelling Units (Affordable)

2. An Accessory Dwelling Unit designated for households earning at or below 80% of the Area Median Income for the Boston MSA, carrying a deed-restriction ensuring the unit's affordability to said households using affirmative marketing and outreach to households in need following M.G.L. Chapter 40B, 20-23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

3. Family Accessory Dwelling Unit

4. For the purposes of carrying out the intent of this by-law, family accessory dwelling units shall be designated for one or more persons related to the primary owner-occupant, specifically: parents, grandparents, children and their respective spouses, grandchildren, siblings, nieces, nephews, aunts, and uncles.

5. Primary Residence

6. A dwelling where the owner-occupant has a true, fixed, and permanent home and principal establishment, and occupies it for a major portion of a calendar year, except for bona-fide temporary absences.

7. Applicability

An accessory dwelling unit shall be permitted in the Residential A - Single Family R-1 and Residential B - Single Family R-2 districts only when added to an existing dwelling unit and does not increase the existing building footprint. All accessory dwelling units shall meet the same criteria, except relative to those with restrictions under M.G.L. Chapter 40B§ 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

PROCEDURES

1. Use and Dimensional Regulations for both Family and Deed-Restricted Accessory Dwelling Units

Accessory Dwelling Units, both Family and Deed-Restricted, created under this by-law shall require a special permit from the Board of Appeals.

The Board of Appeals may issue a special permit authorizing the installation and use of an accessory dwelling unit within existing owner occupied dwelling units when the following conditions are met:

The unit will be a complete, separate housekeeping unit containing both a kitchen and bath.

Only one (1) accessory dwelling may be created within a dwelling.

- i. The lot on which the accessory dwelling unit is located shall have a minimum lot size of ten thousand (10,000) square feet.

- ii. The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.

- iii. The accessory dwelling must be designed so that the appearance of the building remains unchanged, and there shall be no change to the front façade of the dwelling. Unless otherwise required by the State Building Code, any new exterior stairs needed to provide primary or secondary means of egress for the accessory dwelling unit shall be located on the side or rear of the building.

- iv. The gross floor area of an accessory unit shall not be greater than nine hundred (900) square feet or thirty-three (33) percent of the total square footage of the primary dwelling unit, whichever is greater. The unit may not be enlarged beyond the square footage allowed by this Bylaw unless the Board of Appeals, after making findings of fact that support the decision, approve modifications that will not exceed the use and dimensional regulations of this by-law by more than ten (10) percent.

- v. An accessory dwelling unit may not be occupied by more than three (3) people nor have more than two (2) bedrooms.

- vi. The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and the requirements of local, state, and federal fire and life safety codes, regulations and standards as determined by the Saugus Fire Department, and other local By-laws and regulations.

- vii. A parking plan showing that off-street parking spaces shall be available for use by the owner-occupant(s) and tenants shall be submitted to the Board of Appeals. Two private off-street parking spaces shall be available for use by occupants of the accessory dwelling.

- 1. In order to encourage the development of housing units for disabled individuals and persons with limited mobility, the Board of Appeals may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility.

2. Family Accessory Dwelling Units

3. In addition to Section 1) above, family accessory dwelling units shall comply with the following:

4. Upon filing an application for a special permit, the owner-occupants of single-family dwelling units shall also submit a signed affidavit denoting familial status with the Board of Appeals.

The owner-occupant shall annually re-certify the status of occupants and family status with the Building Inspector. The property owner shall be required to notify the Building Inspector of a change of tenants at any time during the twelve-month period within thirty calendar days of said change.

1. The use shall lapse in the event of changed or transferred ownership of the primary unit and the owner shall record with the Registry of Deeds a notice of cancellation of the special permit.
2. The property owner shall file a copy of said notice of cancellation with the Board of Appeals.

3. Deed-Restricted Accessory-Dwelling Units

4. The purpose of this section is to satisfy an immediate need for more rental housing units in the Town of Saugus that meets the regulations of the M.G.L. Chapter 40B, § 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments and provides a means of renting accessory apartments that are not used for family members.

5. All affordable Accessory Dwelling Units shall comply with Section 1 Use and Dimensional Regulations.

6. A special permit from the Board of Appeals shall be required for an Affordable Accessory Unit. The applicant shall show to the satisfaction of the Board of Appeals that the applicant has complied with or will comply with the requirements set forth in (c), below.

7. Applicants will be required to demonstrate to the satisfaction of the Zoning Board of Appeals compliance with all requirements set forth in M.G.L. Chapter 40B, § 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments during the special permit process, including:
 - i. Execution by the owner(s) of a Regulatory Agreement for Affordable Accessory Apartment Projects and a declaration of restrictive covenants.

Said regulatory agreement and declaration of restrictive covenants shall further provide that for as long as the special permit remains in effect, the property shall be subject to the terms, conditions and restrictive covenants contained therein.

Said regulatory agreement with the Town shall provide that upon receipt by the owner(s) of a special permit from the Board of Appeals, the owner(s) shall execute and record in the Essex South District Registry of Deeds or file with the Registry District of the Land Court forthwith said regulatory agreement and declaration of covenants. The owner shall provide a copy of the recorded regulatory agreement and declaration of restrictive covenants to the Board of Appeals prior to the issuance of a building permit.

Said regulatory agreement with the Town shall provide that the lease may be terminated at anytime, but in all cases the owner must provide an existing tenant at least 60 (sixty) days prior written notice that a lease will not be renewed. If the owner desires to terminate the special permit, the owner shall give written notice to the Board of Appeals and shall file a notice of cancellation with the Registry of Deeds or Land Court.

1. Administration and Enforcement

The Town Manager shall appoint a Local Project Administrator to administer Affordable Accessory Dwelling Units (deed-restricted) as required by 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

It shall be the duty of the Building Inspector to enforce the provisions of this Bylaw for both family and affordable (deed-restricted) accessory dwelling units as follows:

1. No building shall be constructed or changed in use or configuration until the Building Inspector has issued a permit. No accessory dwelling unit shall be occupied until a certificate of occupancy has been issued by the Building Inspector where required.
2. The Building Inspector shall refuse to issue any permit, which would result in a violation of any provision of this bylaw or in violation of the conditions or terms of any Special Permit or variance granted by the Zoning Board of Appeals or its agent.
3. Construction or use according to a building permit or special permit shall conform to any subsequent amendment of this section unless the construction or use is begun within a period of not more than six (6) months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.
4. The primary homeowner unit must remain owner-occupied, continuing to occupy at least one of the dwelling units as their primary residence for a minimum of one hundred eighty-five (185) days per calendar year. Under no circumstance may both the primary and accessory unit be simultaneously occupied by tenants.
5. There shall be no boarders or lodgers within either the primary dwelling or accessory dwelling unit.

6. The use of any accessory living area without the documentation required by this By-law must be discontinued or the fines outlined in the Saugus Zoning Bylaw §10 shall apply.

The Saugus Zoning Bylaw §10 shall be applied in the event of violations, prosecution of violations, and building fees.

Appeals shall refer to the procedures in the Saugus Zoning Bylaw §11.4.

Accessory dwelling units created under this Bylaw shall not be sold separate or apart, as a condominium, from the principal structure to which it is an accessory use.

(Affordable Housing Committee)

Article 32. To see if the Town will vote to amend the Town's Zoning Map and Zoning By-law by rezoning lots A-189 to A-193 inclusive, Lots A-155 to A-162 inclusive, on Assessors Plan 2004 (also shown as Lots 15 and 4, Block 7 Map F3) from I-1 Industrial to R-1 Single Family Residential. The property is located at 64 Saugus Avenue and 26 Standish Avenue. (Richard M. Magnan)

Article 33. To see if the Town will vote to amend the Town's Zoning Map and Zoning By-law by rezoning Lots A232 to A231, A236 inclusive on Assessor's Plan 2005 (Also shown as Lot 10, Block 15 Map F4) from R-1 single family residential to R-3 two family residential. This property is located at 27 Saugus Avenue. (Richard M. Magnan)

Article 34. To see if the Town will vote to amend the Town's Zoning Map and Zoning By-law by rezoning Lots A-3 and A-2 on Assessors Plan 3011 (also shown as Lot 1, Block 12 Map H7) from B-1 neighborhood business and I-1 light industrial to R-4 residential multi-density. The property is located at 27 Chestnut Street. (Richard M. Magnan)